

Remarks

Applicants filed a Notice of Appeal for the above-identified application on July 28, 2008. According to MPEP § 714, Applicants may amend “after the date of filing a notice of appeal pursuant to 37 C.F.R. § 41.31(a), if the amendment meets the criteria of 37 C.F.R. § 41.33.” 37 C.F.R. § 41.33(b) states that “Amendments filed on or after the date of filing a brief pursuant to § 41.37 may be admitted: (1) To cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding.”

By this Amendment, Applicants have canceled claim 42. Such cancellation does not affect the scope of any other pending claim in the Appeal. As such, this amendment conforms to 37 C.F.R. § 41.33, and Applicants’ respectfully request that the amendment be entered.

Applicants reserve the right to prosecute the subject matter of claim 42 in a subsequent application.

Conclusion

Applicants submit that the current application is in better form for Appeal.

Applicants request that the amendment be entered.

Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact the Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

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